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UNITED STATES BANKRUPTCY COURT

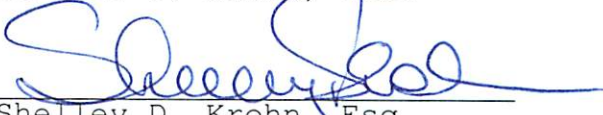
DISTRICT OF NEVADA

In re:)	BK-S 11-11816-LBR
)	Chapter 11
EQUIPMENT MANAGEMENT TECHNOLOGY,)	
)	
)	Date: August 11, 2011
Debtor.)	Time: 10:30 a.m.

**CHAPTER 11 TRUSTEE'S RESPONSE TO GLOBAL TEST EQUIPMENT, INC.'S
AND THE DEBTOR-OUT-OF-POSSESSION'S OPPOSITIONS TO MOTION FOR AN
ORDER AUTHORIZING AND APPROVING THE SALE OF SUBSTANTIALLY ALL OF
THE DEBTOR'S ASSETS TO ELECTRO RENT CORPORATION, ET AL.**

COMES NOW Brian D. Shapiro, Chapter 11 Trustee ("Trustee"), by
and through the law firm of Shelley D. Krohn, Ltd., and files his
*Response to Global Test Equipment, Inc.'s and the Debtor-out-of-
possession's Oppositions to Motion for an Order Authorizing and
Approving the Sale of Substantially All of the Debtor's Assets to
Electro Rent Corporation.* This Response is based upon the
pleadings and papers on file herein, the Declaration of Trustee,
and the arguments of counsel at the hearing on this matter.

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1 The Trustee was appointed in the present case after a motion
2 was brought by FCC, LLC, d/b/a First Capital Western Region, LLC
3 ("FCC") to appoint a trustee. FCC is fully secured in all of the
4 Debtor's assets and income. The obligation owed to FCC by the
5 Debtor is approximately \$12,615,241.08. See Declaration of John
6 Neher dated August 10, 2011. Since his appointment in March of
7 2011, the Trustee has continued to oversee and operate the Debtor.
8 The Trustee marketed the Debtor for sale and entered to
9 confidentiality agreements with several interested parties. After
10 lengthy and intensive negotiations, the Trustee accepted a purchase
11 offer from Electro Rent Corporation ("ERC") in the amount of
12 \$11,084,291.00 less potential adjustments not to exceed
13 \$500,000.00. Immediately upon acceptance of the offer by ERC, the
14 Trustee notified all of the other interested parties that a
15 tentative sale agreement had been entered into and that no further
16 negotiations would be forthcoming.

17 Global Test Equipment, Inc. ("GTE") is owned by the daughter
18 of Vito Longo, the sole shareholder and principal of the Debtor.
19 At the March 11, 2011 hearing on FCC's request to appoint a
20 Trustee, the Court expressed concern regarding the ability of Mr.
21 Longo to market the Debtor for sale and broker a deal that was in
22 the best interests of the creditors based on this familial
23 relationship between Mr. Longo, the Debtor and GTE. See March 11,
24 2011 Transcript, page 30, lines 17-20, page 35, lines 12-14
25 attached hereto as Exhibit "A". Ultimately, the Court appointed the
26 Trustee upon later agreements by the parties.

27 GTE's opposition focuses on largely two principles: (1) that
28

1 GTE's offer is more than the pending offer of ERC so it should
2 prevail, and (2) that some sort of deference should be shown to GTE
3 as there "is an emotional interest in preserving the assets of the
4 Debtor through GTE." See GTE's Opposition [Docket No. 251], page
5 2, paragraph 3. The Trustee has concerns about both of these
6 arguments.

7 First, the Trustee cannot let his business judgement be swayed
8 by emotional interests of interested family members. Clearly that
9 is not appropriate and not in the best interests of creditors. The
10 Trustee has been in communication with GTE regarding a purchase of
11 the Debtor just as he was in communications with other interested
12 parties. Unfortunately, GTE did not offer the highest and best
13 purchase price. The highest offer that GTE ever made to the
14 Trustee was significantly less than the cash offer received from
15 ERC. Again, the Trustee's obligation is to creditors, not the
16 family of the Debtor's principal. Thus, it was impossible for the
17 Trustee to accept GTE's offer.

18 Second, it is important to point out that GTE has been
19 attempting to purchase the Debtor for months. In fact, there was
20 a sale of the Debtor to GTE that was supposed to close in January
21 of 2010. The deal never closed. See Exhibit "A", March 11, 2011
22 Transcript, page 33, lines 2-6. In fact, FCC's Omnibus Reply to
23 GTE's Opposition sets forth in detail all of the many efforts that
24 GTE has made to try and buy the Debtor. All to no avail.

25 As early as March 20, 2011, communications were had between
26 the Trustee and GTE's counsel, Elizabeth Bates, regarding a
27 potential for sale of the Debtor to GTE. See Declaration of
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1 Trustee. These communications went back and forth between the
2 parties for months until the Trustee received an email from Harris
3 Bank ("Harris") dated July 6, 2011, indicating that the deal for \$8
4 million was "dead". See Declaration of Trustee. For GTE to now
5 claim that it was not given adequate opportunity to try and buy the
6 Debtor is not only disingenuous, it appears to be purposely
7 misleading. GTE has had months, if not years, to put a deal
8 together. They simply were never able to close a deal.

9 On its face, it appears that GTE's offer of \$12,200,000.00 is
10 more than the current offer from ERC. GTE even states that this
11 increase in purchase price will result in additional funds for
12 administrative claims, and unsecured creditors. See GTE's
13 Opposition [Docket No. 251], page 3 paragraph 5(a). This is simply
14 untrue. Recall that FCC is secured to all assets of the Debtor.
15 Unless and until an offer is made that exceeds the amount owed to
16 FCC, there are NO MONIES available to administrative claims or
17 unsecured claims UNLESS FCC agrees to that distribution. With the
18 present offer from ERC, FCC has generously agreed to a carve out
19 that will make distribution to administrative claimants and
20 \$300,000.00 to general unsecured claimants. There is absolutely no
21 requirement that FCC would have to increase any distribution to
22 administrative or unsecured claimants because the offer of GTE is
23 still LESS than what is owed to FCC. The offer from GTE really nets
24 no additional funds for other claimants of the Debtor. In that
25 vein, the offers of GTE and ERC are the same.

26 Obviously under these facts, FCC has an uncontroverted
27 position of oversight and approval of any proposed sale. Debtor's
28

1 counsel even acknowledges that any sale of the Debtor's business
2 would clearly be subject to FCC's approval. See Exhibit "A", March
3 11, 2011 Transcript, page 34, lines 13-16. Based on FCC's
4 pleadings in this case, the Trustee clearly has FCC's approval of
5 the sale to ERC.

6 The Trustee has reviewed the competing offer of GTE. GTE
7 proposes to pay the sum of \$12,200,000.00 by obtaining a loan from
8 Harris in the amount of \$8.5 million and a second loan from US
9 Capital Partners ("US Capital") in the amount of \$3.7 million. GTE
10 is not proposing to put up any of its own money. Rather, its offer
11 requires 100% financing. While the \$8.5 million loan from Harris
12 appears to be a relatively firm commitment¹, it cannot be argued
13 that the letter from US Capital shares that same status. Upon
14 receiving the "commitment letters" of Harris and US Capital
15 attached to GTE's pleadings, the Trustee obtained approval from
16 GTE's counsel to contact said potential lenders.

17 US Capital made it very clear to the Trustee that there was no
18 certainty that it would fund the \$3.7 million loan to Mr. Longo²
19 until their due diligence was completed. Further, US Capital would
20 not even begin their due diligence investigation until a \$35,000.00
21

22
23 ¹ Trustee does not consider the letter of Harris dated August 10, 2011 a
24 firm commitment letter. On its face, the letter states that Harris is merely
25 "interested" in providing the funding. It does not commit to extend a \$12.2
26 million loan. Harris states that it must complete more investigation. With the
exception of the July 6, 2011 email from Harris stating that the deal was dead,
Harris has never requested anything from the Trustee. Furthermore, the Trustee
would not have provided any direct information to Harris as such information
would have only been provided to GTE by virtue of a confidentiality agreement.
See Declaration of Trustee.

27
28 ² US Capital's commitment letter is addressed to Vito Longo as CEO of the
Debtor. GTE is identified as a corporate guarantor.

1 retainer was paid. Upon receipt of the retainer, US Capital
2 anticipated that the due diligence investigation of both the Debtor
3 and GTE would take 10-14 days. If any loan was to be extended, US
4 Capital believed it would be 4-6 weeks after that to fund the loan.
5 See Declaration of Trustee. US Capital advised that no financial
6 records of the Debtor or GTE had been provided. Rather the
7 commitment letter was based purely on conversation with Mr. Longo
8 and Amy Perry (sole shareholder of GTE and Mr. Longo's daughter).
9 See Declaration of Trustee. Obviously, the Trustee has no idea of
10 the contents of that conversation other than Mr. Longo and Ms.
11 Perry most certainly made the ongoing business of the Debtor and
12 GTE appear loan-worthy to the tune of \$3.7 million. Whether their
13 "puffery" will pan out in a \$3.7 million loan once the actual
14 financial documents are provided to US Capital is anybody's guess.

15 To summarize, the Trustee has received two offers to purchase
16 the Debtor. The first is an immediate, all cash offer from ERC
17 that will result in a carve out for administrative claimants and
18 general unsecured creditors. FCC is agreeable to this offer
19 despite the fact it will not be paid in full. The second offer is
20 from GTE for a slightly larger amount. However, this offer will
21 not result in any increase in the distribution to administrative
22 and unsecured creditors. Rather, FCC will receive slightly more on
23 this obligation but it still will not be paid in full. Regardless
24 of the potential to collect more on its obligation, FCC is NOT
25 agreeable to GTE's offer as it is completely dependent on financing
26 that has yet to be secured by GTE. See FCC's Omnibus Reply.

27 The Trustee's position is clearly what is in the best
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1 interests of ALL of the creditors of the Debtor. Plainly stated,
2 the Trustee has one offer for cash and one offer that requires
3 financing that has yet to secured. For all other purposes, the
4 offers are the same as far as the Estate is concerned. The Trustee
5 is legitimately concerned that if the sale to ERC is denied so the
6 a sale with GTE can be pursued, the Estate will be irreparably
7 harmed. ERC has made it clear that if this transaction does not
8 close pursuant to the terms of the Purchase Agreement; i.e. closing
9 must occur within three days after court approval, or August 15,
10 2011³, that it will terminate the Asset Purchase Agreement.

11 The ability of the Debtor to return to operations if the sale
12 is not approved is unlikely. The Trustee has had to terminate
13 employees of the Debtor, including Vito Longo. Longo was
14 permitting non-employees to have access to the Debtor's computers
15 and financial information. Longo admitted his wrongdoing to the
16 Trustee but refused to sign an acknowledgment of the same and
17 agreement not to let it happen again. As a result, Longo was not
18 allowed on the Debtor's property. It is also apparent that Longo
19 has maintained communications with the lab techs and has made
20 promises that he is going to "save" the business with a \$17 million
21 loan. See Declaration of Trustee. As such, the lab techs remain
22 loyal to Longo even to the point of becoming confrontational with
23 the Trustee. See Declaration of Trustee. When ERC visited the
24 warehouse and lab during its due diligence investigation, the lab
25 techs refused to cooperate and assist in the investigation despite
26 the Trustee's direct instruction to the contrary. Even more

27
28 ³ See Asset Purchase Agreement, Article X.

1 concerning is that employees may have attempted to utilize portable
2 hard drives ("thumb drives") to obtain information for Longo. It
3 is unknown which employee was attempting to access the computer.
4 However, after entering into the agreement with ERC, the lab
5 technicians were removed from the premises. After such removal, it
6 appears that such employees deleted any and all emails in their
7 mail box (including sent email). Such removal appears to be
8 intentional as it prevents any investigation into what they
9 actually were sending to third parties. See Declaration of
10 Trustee.

11 In addition to the insubordination, the lab techs have
12 admitted to updating their resumes on the Debtor's computers.
13 Computer logs also show that the employees have visited the Nevada
14 unemployment website presumably to determine eligibility for
15 benefits. See Declaration of Trustee.

16 The employee that handled the forklift and bidding process has
17 already resigned leaving no one competent to handle those
18 particular duties. Quite simply, there is no one left to perform
19 necessary job duties. See Declaration of Trustee. While the CFO,
20 Kristina Hedge, has agreed to stay on with the Debtor through this
21 bankruptcy process, it would not be surprising if she accepted a
22 position elsewhere. While Ms. Hedge has been both loyal to the
23 Debtor and supportive of the Trustee's efforts, there can be no
24 doubt that the end is coming. When Ms. Hedge finally leaves, there
25 will be no one left to help the Trustee conduct the business of the
26 Debtor.

27 The situation is dire. The ability of this Debtor to go back
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1 to "business-as-usual" operations if the sale of the Debtor is not
2 approved at this time, is remote. The sale of the Debtor at this
3 point in time has taken on a "now or never" urgency. If there is
4 no sale at this time, the value of the Debtor will be decreased
5 significantly making any future offers substantially less than the
6 current offers. As such, FCC will likely exercise its right to
7 simply collect the Debtor's assets and call it a day.

8 As to the two offers that are up for consideration, the
9 Trustee, in his best business judgment, has to support the cash
10 offer from ERC. The offer from GTE is simply too tenuous and
11 doesn't result in any increase in distribution to administrative or
12 unsecured creditors. If the sale to ERC is lost and the funding
13 does not come through for GTE/Vito Longo, this Debtor and its
14 creditors will be irreparably harmed. It is extremely unlikely
15 that the Trustee could secure another offer of this magnitude,
16 especially since the Debtor will more than likely no longer be
17 operating. More importantly, FCC will undoubtedly simply foreclose
18 on its security interest and repossess all of the Debtor's assets
19 and income. That leaves the Estate and all of its administrative
20 and unsecured creditors with NOTHING. The risk is simply too great
21 to ignore.

22 Alternatively, if the Court is inclined to provide additional
23 time to GTE to purchase the assets, then they should be required to
24 immediately deposit at least \$6 to \$7 million dollars as a
25 nonrefundable deposit. Such nonrefundable deposit will provide the
26 Estate with the ability to recover any damages by virtue of a lost
27 sale to ERC.

28

SHELLEY D. KROHN, LTD.

Chapter 11 Trustee

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EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

LAS VEGAS, NEVADA

In re: EQUIPMENT MANAGEMENT)	E-Filed: 08/01/11
TECHNOLOGY,)	
)	
Debtor.)	Case No.
)	BK-S-11-11816-LBR
)	Chapter 11

TRANSCRIPT OF PROCEEDINGS
OF
HEARING RE: MOTIONS
VOLUME 1
BEFORE THE HONORABLE LINDA B. RIEGLE
UNITED STATES BANKRUPTCY JUDGE

Friday, March 11, 2011

9:30 a.m.

Court Recorder: Helen C. Smith

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 And this is sensitive equipment, your Honor. You don't
2 want to be shipping one piece at a time. It's expensive.

3 So there could be equipment that gets returned from one of
4 the vendors they're both working with, and I don't think it's a
5 material amount of equipment, your Honor, when you get there.

6 But some stuff could have been returned from Northrop to
7 EMT that a part of it belongs to Global in the transactions
8 they both do --

9 THE COURT: But, apparently --

10 MR. SCHWARTZ: -- with Northrop.

11 THE COURT: -- all of sudden, your accounting says it
12 belongs to Global and not to the debtor.

13 MR. SCHWARTZ: I think this is an issue that Global
14 raised with the equipment list that they're being offered that
15 they got from FCC and saying, wait a minute, some of that's our
16 equipment. I haven't seen, your Honor, what this amount --

X 17 THE COURT: Well --

18 MR. SCHWARTZ: -- we're talking about.

19 THE COURT: -- how can Mr. Longo be in a position to
V 20 assert the rights of the debtor on that issue?

21 MR. SCHWARTZ: I think, your Honor, it's an
22 evidentiary issue. I don't think we're asserting any rights or
23 not.

24 THE COURT: Well --

25 MR. SCHWARTZ: I don't --

1 happened.

* 2 And everyone said we thought there was a sale that was
3 supposed to close on January 28th. That's in Mr. Nair's
4 declarations. Everybody thought this business was going to
5 sell to Global on the 28th of January. For whatever reason,
6 everybody's got their answers. It didn't close.

7 In that context, I think, your Honor, there's one other
8 point there that is important that Mr. Gordon says, well, now
9 Global's not paying their bills to EMT because they thought the
10 sale was going on.

11 Well, that's right, your Honor. I think there have been
12 various offers out there, one that peaked at about 11.2
13 million.

14 I think I'd conceive from a buyer of a business regardless
15 of whether they're related or not you're buying your competitor
16 or your customer. I'm about to give you what's now 9.25
17 million or 11.25 million. That's our deal. I'm sorry that I'm
18 not about to pay you for this receivable that I owe you in the
19 context I'm about to close.

20 So I think there's a little bit of misdirection there,
21 too, your Honor, in that you had a large transaction going on
22 in which all the parties were complicit and agreed, and now
23 we're talking about what is payables that could be only 30 or
24 60 days old, and, again, some (indiscernible) were saying
25 \$170,000.

1 The receiver's numbers from last year, your Honor -- I'm
2 sorry -- the debtor did 9.5 million in total revenue. So,
3 again, some of the things we're highlighting here, they're not
4 immaterial, your Honor, but they're not massive.

5 We're not talking about big numbers, and so I think
6 there's a little bit of misdirection and a little bit of
7 overstating.

8 So to go back to the top, I think it's clear and
9 convincing evidence for the appointment of a trustee. I think
10 you have -- it's an extraordinary remedy. I think in terms of
11 the risk going forward -- the sale process, if we break things
12 up, I think that's an interesting idea.


* 13 But we know where the equipment is. We have a list. The
14 books are balanced. We've agreed all sales will be done at
15 this point with FCC's consent, so I don't see the risk to the
16 company at this point.

17 Finally, your Honor, in our reply, we put in at least two
18 declarations from customers who say they think working with
19 Mr. Longo is in the best interest of the company, so we have
20 customer support.

21 And so at this stage in the case absent something
22 postpetition that Mr. Longo does -- and all the cases say that
23 there's always a postpetition act that gives rise to the
24 appointment of a trustee in total -- it's just too early and
25 not appropriate.

1 THE COURT: Okay. All right. Before I ask for
2 exhibits and before we start the testimony, I'm going to have
3 you take 10, 15 minutes to discuss my thought on -- it is
4 purely settlement, I mean, because the answer's going to be I'm
5 either going to appoint a trustee or I'm not going to appoint a
6 trustee.

7 So now's your time before you spend a whole day on
8 attorneys time, et cetera, and thinking about the idea is
9 appointment of a trustee to conduct the sales process leaving
10 the debtor in possession to run the business or some variation
11 on that kind of theme.

 12 I mean, you have various interests and stuff because we do
13 have a concern about operating a business, but the fiduciary
14 issues.

15 So let me just have you spend ten minutes talking about
16 it. If you don't come to an agreement, that's fine. We'll
17 take testimony.

18 MR. SCHWARTZ: One question, your Honor. We had
19 discussed earlier -- but it didn't seem to make sense at the
20 time -- maybe a chief restructuring officer or something of
21 that matter.

22 THE COURT: That's --

23 MR. SCHWARTZ: Would that --

24 THE COURT: That's certainly within your discussions.

25 MR. SCHWARTZ: Just make sure --